

Remarks

Upon entry of the amendments herein, claims 48-119 are pending in the application with claims 48, 118 and 119 being the sole independent claims. Support for the new claims can be found throughout the original claims and the specification. Accordingly, the new claims add no new matter and their entry is respectfully requested.

Restriction Election with Traverse

In response to the Office Action, dated October 3, 2002, requesting an election of one invention to prosecute in the instant application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by new claims 48-85 and 98-100. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made *with* traverse.

MPEP 803 (Eighth Edition, August 2001), at page 800-4, left hand column, states as one of the criteria for a proper requirement for restriction that: "There must be a serious burden on the examiner if restriction is required" Thus, the Patent Office encourages the search and examination of an entire application on the merits, where such search and examination can be made *without* serious burden, even though two separate, non-overlapping searches may be required.

In the present case, Applicants respectfully assert that the search of restriction groups I-XV does not impose a serious burden upon the Examiner, as a search concerning the patentability of the invention of one group (particularly Group I) will clearly uncover art of

interest to the other groups. Significantly, the claims of groups I-III have been classified in the *same* classes and subclasses (435/325, 449, 450 and 800/25), and therefore, can clearly be examined without serious burden on the part of the Examiner. Thus, the claims of Groups I-III should be examined together.

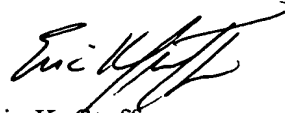
Further, contrary to the Examiner's conclusory assertions that the inventions are "mutually exclusive and independent," Applicants believe that the claims of inventions I-XV are related. The claims are all generally directed to methods of generating a hybrid mammalian cell (and populations of said cells) comprising fusion of a cytoplasmic fragment with a nuclear donor cell. The claims of Groups II-XV set forth one or more additional steps or modifications to the methods of Group I, use the general methods of Group I as the basis for forming populations of hybrid cells, or use the methods of Group I as a basis for enriching a population of hybrid mammalian cells. Clearly, the groups are closely related and it would not entail a serious burden for the Examiner to conduct a search of the subject matter of Groups II-XV after having performed a search of the subject matter of Group I.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Eric K. Steffe
Attorney for Applicants
Registration No. 36,366

Date: 3/3/03

1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934
(202) 371-2600



- 17 -

DOMINKO *et al.*
Appl. No. 09/881,204

Version with markings to show changes made

In the Claims:

Claims 1-47 have been canceled.

Claims 48-119 have been newly added.